

IN THE SENATE OF THE UNITED STATES.

APRIL 6, 1880.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 504.]

*The Committee on Military Affairs, to whom was referred the bill (S. 504) to correct the military record of William H. Terry, late a private in Company H, Thirty-fourth Regiment of Kentucky Volunteers, have had the same under consideration, and beg leave to submit the following report:*

It appears from the records in the War Department that William H. Terry was mustered into the service August 25, 1862, and was assigned to Company H, Thirty-fourth Kentucky Volunteers. On the 1st of November, 1863, he was reported a deserter at Cumberland Gap, Tennessee. On the 24th of June, 1864, he returned from his desertion. His case was examined by the brigade commander and he was restored to duty without trial, upon the condition of forfeiting pay and allowances during the period of his absence.

The Adjutant-General of the Army says:

In this connection it seems proper to remark that experience has demonstrated that whenever an investigation of such cases was made by the commanders of the forces in the field at the immediate date of their occurrence, with all competent testimony before them, their action should not in justice be subjected to review and possible revocation upon written testimony made from fifteen to eighteen years afterwards.

Your committee fully concur in this view. The action of his brigade commander relieved him from a possible penalty or punishment which would have been imposed by court-martial. He accepted the condition of his restoration to duty, and should, therefore, be satisfied.

Your committee, therefore, report the bill back adversely, ask to be discharged from its further consideration, and recommend its indefinite postponement.

